

FOR PUBLICATION

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

APPELLATE DIVISION

JEREMIAH ATTIDORE,)	
)	D.C. CRIM. APP. NO. 93-107
Appellant,)	
)	T.C. CRIM. NO. F368-91
v.)	
)	
GOVERNMENT OF THE VIRGIN ISLANDS))	
)	
Appellee.)	
_____)	

On Appeal from the Territorial Court of the Virgin Islands
Considered: April 6, 1994
Filed: April 11, 1994

BEFORE: **THOMAS K. MOORE**, Chief Judge, District Court of the Virgin Islands; **JAMES T. GILES**, Judge of the United States District Court for the Eastern District of Pennsylvania, Sitting by Designation; and **JULIO A. BRADY**, Judge of the Territorial Court of the Virgin Islands, St. Croix Division, Virgin Islands, Sitting by Designation.

APPEARANCES:

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Attorney for Appellee

JUDGMENT OF THE COURT

This matter is before the Court on appeal from the Territorial Court of the Virgin Islands, having been submitted on the briefs without oral argument. Appellant challenges the Territorial Court's jury instruction regarding the burden of proof regarding appellant's sanity and capacity to commit the crime. After due consideration,

IT IS on this 11 day of April, 1994, hereby **ORDERED AND ADJUDGED** that the judgment of the Territorial Court is **AFFIRMED**¹.

FOR THE COURT:

_____/s/_____
THOMAS K. MOORE, CHIEF JUDGE
DISTRICT COURT OF THE VIRGIN ISLANDS

A T T E S T:
ORINN F. ARNOLD
Clerk of the Court

BY: _____

1. The Territorial Court instructed the jury that there exists "a presumption that every person is sane; however, where some evidence of insanity has been introduced, then that presumption disappears from the case and the burden is then on the Government to prove that the offense was not a consequence of that mental illness of the Defendant". In his brief, appellant inaccurately stated that "[s]uch instruction unfairly and improperly directed the jury to place the burden of sanity upon the Defendant by proof beyond a reasonable doubt." Brief for Appellant at 11. This Court is offended by the misleading portrayal of the record, and counsel is warned that future filings with similar blatant misstatements may subject counsel to sanctions.

D.C. App. Crim. 93-107
Judgment Order
Page 3

Deputy Clerk

Copies to: Leslie Payton, Esq., Territorial Public Defender
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Verne A. Hodge, Presiding Judge of the Territorial
Court
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